

## **Zoning Board of Appeals**

TOWN OF BRUNSWICK  
336 Town Office Road  
Troy, New York 12180

### **MINUTES OF THE BRUNSWICK ZONING BOARD OF APPEALS REGULAR MEETING HELD NOVEMBER 15, 2021**

PRESENT were ANN CLEMENTE, CHAIRPERSON, E. JOHN SCHMIDT, and PATRICIA CURRAN.

ABSENT were ADRIAN MORIN and JOHN MAINELLO III.

ALSO PRESENT was CHARLES GOLDEN, Brunswick Building Department.

The draft minutes of the October 18, 2021 regular meeting were reviewed. Chairperson Clemente noted one clarification: on page 6, line 6, “having” should be changed to “approving.” Chairperson Clemente made a motion to approve the minutes of the October 18, 2021 regular meeting subject to the noted clarification, which motion was seconded by Member Curran. The motion was unanimously approved, and the minutes of the October 18, 2021 regular meeting were approved subject to the noted clarification.

The first item of business on the agenda was an application for a sign variance submitted by Larry Schepici for property located at 697 Hoosick Road. The applicant sought a sign variance to advertise a restaurant on the property. Larry Schepici was present to review the application. Chairperson Clemente asked Mr. Schepici if there had been any changes made to the application since the last Zoning Board meeting and he said that there had not. Mr. Schepici reviewed that he was proposing two 4-foot by 4-foot signs on the sides of the building where banners also advertising the restaurant were currently hanging. Member Curran asked about the freestanding monument sign located next to the building, specifically if there were any setback issues with that sign or if it was a grandfathered use under the Brunswick sign law. Mr. Golden stated that the

freestanding monument sign is grandfathered, and also noted that the freestanding monument sign was included in the total square feet of all signs on the property, which is not close the maximum allowed amount of 300 square feet. Attorney Gilchrist noted that the variance before the Zoning Board was only for the total number of signs. The Notice of Public Hearing was read into the record by Attorney Gilchrist, noting that the Public Hearing Notice was published in the Troy Record, placed on the Town sign board, posted on the Town website, and mailed to the owners of all properties located within 300 feet of the project site. Chairperson Clemente opened the public hearing on the application. There were no public comments on the application. Chairperson Clemente asked Mr. Golden if there had been any written comments on the application and he stated that there had been none, either by written letter or email. Chairperson Clemente asked the other Zoning Board members if there were any questions or comments on the application and there were none. Chairperson Clemente made a motion to close the public hearing, which was seconded by Member Curran. The motion was unanimously approved, and the public hearing was closed. Chairperson Clemente noted that several items had been requested from the applicant: a scaled rendering of the building, which was not available; the total square footage of all signs advertising the business, which was included; a list of all proposed signs, which was included; a letter from the owner of the building stating that they consented to the signs being placed on the building, which was provided; and a corrected application form, which was submitted. Chairperson Clemente noted that the project was in a non-residential space and that for SEQRA, a short Environmental Assessment Form (EAF) was submitted with the application. Chairperson Clemente stated that there was no potential for significant environmental impact due to the proposed signs and made a motion for a negative declaration under SEQRA on the project, which was seconded by Member Curran. The Zoning Board voted unanimously to declare a negative

declaration on the project under SEQRA. The Zoning Board then reviewed the elements for consideration on the sign variance application. As to whether the requested variance would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Member Curran stated that the building is located in a commercial area and that there is already a freestanding sign next to the building, so signs on the building would have no impact on the neighborhood. Chairperson Clemente agreed. As to whether a feasible alternative is available, Member Curran stated that there is not, and that the signs must be placed on the sides of the building due to the building being so close to Hoosick Road. As to whether the requested variance is substantial, Member Curran stated that it is not and Chairperson Clemente agreed. As to whether the variance would create an adverse environmental or physical impact, Member Curran stated that there would no environmental impact and Chairperson Clemente agreed. As to whether the difficulty giving rise to the need for the variance is self-created, Chairperson Clemente stated that it was not due to the closeness of the building to Hoosick Road. Chairperson Clemente asked if there should be any conditions on the application. Attorney Gilchrist suggested that a condition be that the sign variance be limited to the current tenant at the location, and that any change in tenancy or use at the location would need to come before the Zoning Board of Appeals for a new sign variance. Member Schmidt made a motion to grant the sign variance subject to the stated condition, which was seconded by Member Curran. The motion was unanimously approved and the sign variance was granted subject to the stated condition. Chairperson Clemente directed the applicant to continue to coordinate with the Town Building Department on this matter.

The second item of business on the agenda was an application for an area variance submitted by Thomas Ogden and Sheila Ogden for property located at 12 Colehamer Avenue. The applicants sought an area variance in connection with the construction of a 16-foot by 16-foot shed

on the property. Thomas Ogden was present to review the application. Chairperson Clemente asked Mr. Ogden if there had been any changes made to the application since the last Zoning Board meeting and he said that there had not. The Notice of Public Hearing was read into the record by Attorney Gilchrist, noting that the Public Hearing Notice was published in the Troy Record, placed on the Town sign board, posted on the Town website, and mailed to the owners of all properties located within 300 feet of the project site. Chairperson Clemente opened the public hearing on the application. There were no public comments on the application. Chairperson Clemente asked Mr. Golden if there had been any written comments on the application and he stated that there had been none, either by written letter or email. Member Curran asked what the height of the shed would be. Mr. Ogden stated that the walls of the shed would be 10 feet tall, and that the shed would be 14 feet tall at its peak. Member Curran noted that the copy of the application she received did not have a stamp from the Brunswick Building Department on it, and Chairperson Clemente stated that the application she received was not stamped either. Mr. Golden examined the applications they had received, compared them to his, and confirmed that the information was the same, he must have just sent out the applications before stamping them. Chairperson Clemente made a motion to close the public hearing, which was seconded by Member Schmidt. The motion was unanimously approved, and the public hearing was closed. Chairperson Clemente stated that the project was a Type II action under SEQRA, which does not require any further SEQRA review. Chairperson Clemente stated that the Town had received a letter from the Rensselaer County Bureau of Economic Development and Planning, stating that the project will not have a major impact on County plans and that local consideration shall prevail. Chairperson Clemente stated that the Zoning Board had requested a drawing of the shed from the applicant, which had been provided. The Zoning Board then reviewed the elements for consideration on the area variance

application. As to whether the requested variance would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Chairperson Clemente stated that the character of the neighborhood currently is well-kept and landscaped, that building a shed for storage would be consistent with the current character of the neighborhood, and that shed would be positioned so that there would be no impact to the neighbors. As to whether a feasible alternative is available, Member Curran stated that the applicant is just replacing two older sheds in the same spot on the property, which would be an improvement. Chairperson Clemente stated that the location of a septic field and the slope of the property limits where a shed could be placed. As to whether the requested variance is substantial, Chairperson Clemente stated that 20 feet of setback is required for a rear yard setback, and the applicant is requesting 6 feet, but that given the field conditions of the lot and the position of the shed on the lot, the variance in this case should not be considered substantial in that neighborhood. As to whether the variance would create an adverse environmental or physical impact, Member Curran stated that there would be no environmental impact, and would enhance the look of the neighborhood. As to whether the difficulty giving rise to the need for the variance is self-created, Member Curran stated that it was not as there was no other place to put a shed due to the location of a septic field and trees and the slope of the property. Member Curran made a motion to grant the area variance, which was seconded by Member Schmidt. The motion was unanimously approved and the area variance was granted. Chairperson Clemente directed the applicant to continue to coordinate with the Town Building Department on this matter.

The third item of business on the agenda was an application for a sign variance submitted by AJ Sign Co. for property located at 9 Lord Avenue. The applicant sought a sign variance to advertise a Hannaford Supermarket being constructed on the property. Elizabeth Hobbs,

representing Hannaford Supermarkets, and a representative from AJ Sign Co. were present for the applicant. Ms. Hobbs stated that the applicant is proposing three signs, two on the supermarket building and one freestanding pylon sign, totaling 289 square feet, and since the Brunswick Zoning Law allows a business to have two signs totaling 300 square feet, the applicant is applying for a variance for one additional sign. Ms. Hobbs stated that the picture of the proposed pylon sign in the application was discussed at the last Zoning Board meeting, and handed out a supplemental exhibit to the Zoning Board members showing a clearer version of the proposed pylon sign with the 9-1-1 address added, which was also discussed at the last meeting. Ms. Hobbs also stated that adding the 9-1-1 address to the pylon sign was the only change to the application since the last meeting. The Notice of Public Hearing was read into the record by Attorney Gilchrist, noting that the Public Hearing Notice was published in the Troy Record, placed on the Town sign board, posted on the Town website, and mailed to the owners of all properties located within 300 feet of the project site. Chairperson Clemente opened the public hearing on the application. Edward Golden, of 14 Lord Avenue, asked why the variance was necessary. Attorney Gilchrist stated that the Brunswick Zoning Law allows for 300 square feet of signage, which the applicant's proposal meets, one pylon sign, which the proposal also meets, and two total signs, and since the applicant is proposing three total signs, the variance is for one additional sign proposed to be located on the building. The representative from AJ Sign Co. then reviewed all three signs in detail. Edward Golden asked if the sign would turn off at night. Ms. Hobbs confirmed that it would. Ms. Hobbs then discussed the pylon sign, stating that it would face Hoosick Road, have the 9-1-1 address on it, be 23 feet away from the edge of the pavement on Hoosick Road, be dark sky friendly, and feature downlighting. Chairperson Clemente asked what hours the pylon sign would be illuminated. Ms. Hobbs stated that the pylon sign would be lit from 6:00am to 11:00pm, which

will be the store's operating hours. Attorney Gilchrist noted that the Zoning Board had placed a condition on the approval of the light pole variance for the supermarket that the lights surrounding the store must turn off when the store closes, except for a few lights at the front of the store for security, and that the lights for any signs should remain consistent with that condition. There were no further public comments on the application. Chairperson Clemente asked Mr. Golden if there had been any written comments on the application and he stated that there had been none, either by written letter or email. Member Curran asked if the pylon sign would need to stay lit all night for the 9-1-1 address, and what type of lighting the pylon sign would use. Ms. Hobbs stated that the pylon sign would be backlit, that the 9-1-1 address would use downlighting, and that the entire pylon sign would use the latest LED technology. The representative from AJ Sign Co. then briefly reviewed LED technology in general and the specific LED technology to be used in the pylon sign. Ms. Hobbs then stated that the pylon sign would be lit 24 hours a day, seven days a week, but clarified that it would not be parallel or perpendicular to Hoosick Road, but rather be at an angle. Member Curran and Chairperson Clemente both noted that the 9-1-1 address was a safety issue, so it was necessary that it be lit all night. Chairperson Clemente made a motion to close the public hearing, which was seconded by Member Schmidt. The motion was unanimously approved, and the public hearing was closed. Chairperson Clemente noted that the project was in a non-residential space and that for SEQRA, a short EAF was submitted with the application. Chairperson Clemente stated that there was no potential for significant environmental impact due to the proposed signs and made a motion for a negative declaration under SEQRA on the sign variance, which was seconded by Member Schmidt. The Zoning Board voted unanimously to declare a negative declaration on the sign variance under SEQRA. Chairperson Clemente stated that the Town had received a letter from the Rensselaer County Bureau of Economic Development and Planning,

stating that the project will not have a major impact on County plans and that local consideration shall prevail. The Zoning Board then reviewed the elements for consideration on the area variance application. As to whether the requested variance would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Member Schmidt stated that the supermarket being built creates a major change to the neighborhood, but one additional sign for the already-approved supermarket will not create a noticeable change. As to whether a feasible alternative is available, Chairperson Clemente stated that the applicant scaled back the number of signs from the original proposal to keep the square footage below 300 square feet and are now only asking for a variance for one sign. As to whether the requested variance is substantial, Member Curran stated that it was not as it is only one additional sign and will be below the maximum allowed amount of square footage. As to whether the variance would create an adverse environmental or physical impact, Chairperson Clemente stated that it would not. As to whether the difficulty giving rise to the need for the variance is self-created, Chairperson Clemente stated that it was, as it is for advertisement, but that being self-created is relevant, but not determinative. Chairperson Clemente asked if there should be any conditions on the application. Member Schmidt stated that there should be two conditions on the application: first, the 9-1-1 address on the pylon sign is to be lit 24 hours a day, but that the rest of the pylon sign should turn off when the supermarket closes at 11:00pm, just like the light poles in the parking lot; and second, the two signs on the supermarket building should also turn off when the supermarket closes at 11:00pm. Chairperson Clemente and Member Curran agreed on these conditions. Member Curran made a motion to grant the sign variance subject to the stated conditions, which was seconded by Member Schmidt. The motion was unanimously approved and the sign variance was granted subject to the



stated conditions. Chairperson Clemente directed the applicant to continue to coordinate with the Town Building Department on this matter.

The fourth item of business on the agenda was an application for an area variance submitted by Donald Schneider and Kathleen Schneider for property located at 208 Old Siek Road. The applicants sought an area variance in connection with the construction of 30-foot by 50-foot metal garage. Donald and Kathleen Schneider were present to review the application. Chairperson Clemente asked the applicants if there had been any changes made to the application since the last Zoning Board meeting and Mr. Schneider said that there had not. The Notice of Public Hearing was read into the record by Attorney Gilchrist, noting that the Public Hearing Notice was published in the Troy Record, placed on the Town sign board, posted on the Town website, and mailed to the owners of all properties located within 300 feet of the project site. Chairperson Clemente opened the public hearing on the application. There were no public comments on the application. Chairperson Clemente asked Mr. Golden if there had been any written comments on the application and he stated that there had been none, either by written letter or email. Chairperson Clemente made a motion to close the public hearing, which was seconded by Member Curran. The motion was unanimously approved, and the public hearing was closed. Chairperson Clemente stated that the project was a Type II action under SEQRA, which does not require any further SEQRA review. Chairperson Clemente stated that the Town had received a letter from the Rensselaer County Bureau of Economic Development and Planning, stating that the project will not have a major impact on County plans and that local consideration shall prevail. The Zoning Board then reviewed the elements for consideration on the area variance application. As to whether the requested variance would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Chairperson Clemente stated that many houses in the

neighborhood have large front setbacks and accessory structures, meaning that those accessory structures cannot easily be seen, and that the applicants' proposed garage at this property would not be out of character. As to whether a feasible alternative is available, Member Curran stated that the applicants explained there was not due to a septic field on the lot and sloping on another area of the lot, making the proposed location the only feasible location. As to whether the requested variance is substantial, Member Curran stated that it would not be due to the large front setback of the house, and noted that the garage would be 137 feet back from Old Siek Road. As to whether the variance would create an adverse environmental or physical impact, Chairperson Clemente stated that there would be minor disturbances during construction, but no long-term environmental impacts. As to whether the difficulty giving rise to the need for the variance is self-created, Member Curran stated that it was, but that it was not determinative in this case. Member Curran made a motion to grant the area variance, which was seconded by Member Schmidt. The motion was unanimously approved and the area variance was granted. Chairperson Clemente directed the applicant to continue to coordinate with the Town Building Department on this matter.

The fifth item of business on the agenda was an application for a sign variance submitted by Troy Botanical Garden, LLC for property located at 1004 Hoosick Road. The applicant sought a sign variance to advertise a Korean Noodle and Tea House on the property. Dave Letzelter was present for the applicant. Chairperson Clemente asked Mr. Letzelter if there had been any changes made to the application since the last Zoning Board meeting and he said that there had not, though he did clarify that the sign is not currently ready and that a smaller sign with the same design would be put in the same spot along Hoosick Road until the permanent sign is ready. The Notice of Public Hearing was read into the record by Attorney Gilchrist, noting that the Public Hearing Notice was published in the Troy Record, placed on the Town sign board, posted on the Town website, and

mailed to the owners of all properties located within 300 feet of the project site. Chairperson Clemente opened the public hearing on the application. There were no public comments on the application. Chairperson Clemente asked Mr. Golden if there had been any written comments on the application and he stated that there had been none, either by written letter or email. A member of the public then asked about the project and the Brunswick Greens golf course, specifically if the sign was to advertise a new business to be operated at this location. Mr. Letzelter clarified that a Korean Noodle and Tea House was going into the restaurant space on the property and that the golf course will still be in operation. Mr. Letzelter then reviewed recent work that has been done on the golf course, stating that it is a 9-hole course, and that pavement has been added for the golf cart paths. Another member of the public asked why everyone within 300 feet of the project site received a copy of the Notice of Public Hearing in the mail. Attorney Gilchrist stated that it was done because that is the requirement under the Brunswick Zoning Law for the review of this application. Chairperson Clemente made a motion to close the public hearing, which was seconded by Member Curran. The motion was unanimously approved, and the public hearing was closed. Member Curran asked if 9-1-1 was included on the sign. Mr. Letzelter stated that it was not and that he would add it. Mr. Golden suggested adding a reflective 9-1-1 sign to the sign frame. Chairperson Clemente noted that the project was in a non-residential space and that for SEQRA, a short EAF was submitted with the application. Chairperson Clemente stated that there was no potential for significant environmental impact due to the proposed sign and made a motion for a negative declaration under SEQRA on the project, which was seconded by Member Schmidt. The Zoning Board voted unanimously to declare a negative declaration on the project under SEQRA. Chairperson Clemente stated that the Town had received a letter from the Rensselaer County Bureau of Economic Development and Planning, stating that the project will not have a major

impact on County plans and that local consideration shall prevail. The Zoning Board then reviewed the elements for consideration on the sign variance application. As to whether the requested variance would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Member Curran stated that it would not because it is putting a new sign in place where a sign currently exists. As to whether a feasible alternative is available, Member Curran stated that the sign is using the existing sign location and frame, and that it would just take up more square footage than the current sign, meaning that an alternative location was not feasible. As to whether the requested variance is substantial, Member Schmidt asked how big the current sign was. Mr. Golden stated that the current sign is 86'' x 37'', and that the proposed new sign would be 86'' x 86''. Member Schmidt stated that he would consider the variance for the new sign to be substantial. As to whether the variance would create an adverse environmental or physical impact, Chairperson Clemente stated that there would be minor disturbances during construction, but no long-term environmental impacts. As to whether the difficulty giving rise to the need for the variance is self-created, Chairperson Clemente stated that it was, but that it was not determinative in this case. Chairperson Clemente stated that the applicant adding the reflective 9-1-1 address to the sign should be a condition on the application, and Member Curran agreed. The Zoning Board then discussed whether or not the sign would be lit and if so, what the hours would be for the lighting. Mr. Letzelter stated that while the golf course is in-season, which is June through September, the sign would not be lit due to having longer daylight hours, and that during the off-season for the golf course, which is the rest of the year, the sign would be lit Fridays through Sundays, from 10:00am to 7:00pm, which would be the operating hours of the Korean Noodle and Tea House. The Zoning Board agreed that a second condition on the application would be that the lights for the sign turn off at 7:00pm on Fridays, Saturdays, and Sundays from October through

May. Member Curran made a motion to grant the sign variance subject to the stated conditions, which was seconded by Member Schmidt. The motion was unanimously approved and the sign variance was granted subject to the stated conditions. Chairperson Clemente directed the applicant to continue to coordinate with the Town Building Department on this matter.

The sixth item of business on the agenda was two use variance applications submitted by Atlas Renewables, LLC for properties on Shippey Lane and Brunswick Road. David Brennan, Esq., and Lluís Torrent of Atlas Renewables were present to review the application. Mr. Brennan stated that the applicant is proposing two solar projects and that a use variance is required for both. Mr. Brennan stated that existing National Grid power lines and substations were discussed at the previous meeting, and again reviewed these issues for the Zoning Board. Mr. Brennan stated that there are many large open spaces in Brunswick for solar panels and facilities, but that it is not possible to build solar facilities in those spaces due to not having the ability to connect to the power lines and substations. Mr. Brennan stated that the “essential services” standard applies to use variances. Mr. Golden stated that the Town previously approved another solar project along NYS Route 278, but at the previous meeting, Mr. Brennan presented a map of the area indicating that there was no ability to connect to the power lines in the area, and asked Mr. Brennan to address this. Mr. Brennan handed out new materials to address this issue, and stated that the National Grid map of the area shows that there is capacity for solar, but also discussed an issue concerning voltage. Mr. Brennan reiterated that the applicant cannot site a project in the eastern part of Town due to power lines and substations not being available, and that the applicant needed to look to other parts of the Town for their solar projects. Mr. Golden had a number of technical questions for the applicant, but Mr. Brennan suggested that it would be more appropriate for technical issues to be addressed by an engineering consultant to the Zoning Board. Attorney Gilchrist agreed that

the Zoning Board should consider a motion to retain an engineering consultant. Member Curran asked if the solar projects would be considered a public utility, as Mr. Brennan had referred to a public utility standard. Attorney Gilchrist stated that Mr. Brennan had been speaking to the standard of use variance review. Mr. Brennan then stated that there are different uses under the Brunswick Zoning Law that include public utilities, but that he had used the term in connection with the public utility use variance standard since the solar field would be considered an “essential service.” Member Curran asked if there was a connection to a substation in Sycaway near where the second project was being proposed. The Zoning Board and applicant then discussed power line and substation connections. Member Curran asked how members of the community would get the benefit of electrical power under the applicant’s proposals. Mr. Torrent stated that the projects are for distributed generation community solar, that all customers within the National Grid territory can subscribe to the projects, and that the applicant could notify local residents in advance to allow for the opportunity for local subscribers. Member Curran asked if pre-subscribers not in the local community who are still within a National Grid territory could potentially take up all the energy produced by these two projects. Mr. Brennan stated that the notice to the local community before the main launch of the project could mitigate that possibility. Member Curran asked what the benefit to the local community would be if local subscribers were not being directly benefitted. Mr. Torrent stated that the applicant would market the project to members of the local community first, then branch out to a broader community. Mr. Torrent then described walking trails and local flora/fauna on the property, as well as school scholarships that would be set up if the projects were to be approved. The Zoning Board then discussed community solar projects more generally. Mr. Brennan stated that there is a trade off between losing farmland for the installation of solar projects as opposed to the need for solar power generation. The Zoning Board continued general discussion

of solar projects. Attorney Gilchrist again advised the Zoning Board to consider a motion to retain an engineering consultant, specifically Laberge Group as technical consultant for review of both projects. Chairperson Clemente made a motion to retain Laberge Group as technical consultant for review of the Atlas Renewables applications for use variance for the Brunswick Solar Farm and Sycaway Solar Farm, which was seconded by Member Curran. The motion was unanimously approved and Laberge Group was retained as technical consultant for review of the Atlas Renewables applications for use variance for the Brunswick Solar Farm and Sycaway Solar Farm. The application materials will be forwarded to Laberge Group for preparation of an estimate of review fees for the funding of an escrow for that purpose by the applicant. This matter is tentatively placed on the December 20 agenda for further discussion.

The index for the November 15, 2021 regular meeting is as follows:

1. Schepici – sign variance (approved subject to condition).
2. Ogden – area variance (approved).
3. AJ Sign Co. – sign variance (approved subject to conditions).
4. Schneider – area variance (approved).
5. Troy Botanical Garden, LLC – sign variance (approved subject to conditions).
6. Atlas Renewables, LLC – use variances (December 20, 2021).

The proposed agenda for the December 20, 2021 regular meeting is as follows:

1. Atlas Renewables, LLC – use variances.